

DEC 19 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****BAILON PASCUA LAFRADEZ,****Petitioner - Appellant,****v.****RAYMOND ANDREWS,****Respondent - Appellee.****No. 04-16136****D.C. No. CV-00-06014-LJO****MEMORANDUM***

**Appeal from the United States District Court
for the Eastern District of California
Dennis L. Beck, Magistrate Judge, Presiding**

Submitted December 12, 2005
Portland, Oregon**

Before: HUG, ALARCON, and GRABER, Circuit Judges.

Petitioner Bailon Pascua LaFradez appeals the district court's denial of his motion to vacate the district court's decision.

After an earlier remand from this court, the district court granted Petitioner's habeas corpus petition and gave him 342 days of credit toward his federal sentence.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

In this proceeding, Petitioner contends that the district court's second calculation also was incorrect and that he is entitled to additional credit.

We agree with Petitioner in one respect only. The district court found that Petitioner's federal detention ended on February 21, 1991, but the writ ad prosequendum formally kept him in federal custody until February 27, 1991. Therefore, the district court plainly erred. United States v. Jordan, 256 F.3d 922, 926 (9th Cir. 2001) (describing the plain error standard). Accordingly, Petitioner is entitled to an additional six days of credit.

We have carefully considered Petitioner's other claims, and the record, and are not persuaded that the district court erred in any other respect.

REMANDED with instructions to grant Petitioner six additional days of credit toward his federal sentence; otherwise AFFIRMED.